

## REMARKS

The final Office Action mailed November April 24, 2008, has been received and reviewed. Claims 1-17 are pending and presently stand rejected. Applicant has amended claims 1, 2, 7, 10 and 11 and added new independent claims 18 and 19. As of this Amendment, the claims are believed to be in condition for allowance and Applicant respectfully requests reconsideration of the application as amended herein.

### Claim Objections

The Examiner has objected to Claims 2 and 3 as to the use of the phrase "friction coefficient." Claims 2 and 3 have been amended to remove this phrase from the claims and recite a relative increase in friction instead. Reconsideration is respectfully requested.

### 35 U.S.C. § 102(b) Anticipation Rejections

Claims 1, 2 and 13 stand rejected as being anticipated by Montero (FR1015197). The standard for anticipation as set forth by the Court of Appeals for the Federal Circuit is as follows:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is

contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Accordingly, the applicant has amended claim 1 to recite in part:

a first, extending limb having a first end region, which includes a first end, and  
a second limb which is curved outward in a C-shaped manner and a second end region, which includes a second end, bent back into an inside of the U-shape, and  
...  
and wherein in the closed position, in a region of overlap between the second end region and the first end region, the end regions are substantially parallel to one another and substantially planar over the entire region of overlap.

The applicant submits that Montero fails to teach or suggest the configuration of the first and second end regions as set forth in amended claim 1, which now includes the “ends” and that these end regions are “substantially parallel to one another and substantially planar over the entire region of overlap.” Montero fails to teach or suggest such a configuration. Montero specifically includes a hook at one end that engages with an aperture for securing the ends of the device of Montero together. Thus, Montero does not disclose the configuration of the end regions of the present invention as now claimed. The applicant further submits that claims 2 and 13 now depend from an allowable base claim and are therefore also in condition of allowance. Accordingly, the applicant respectfully requests reconsideration of the rejection and allowance of the claims.

### **35 U.S.C. § 103(a) Obviousness Rejections**

Claims 12 and 14 stand rejected as being unpatentable over Montero and claims 3-11 and 15-17 as being unpatentable over Montero in view of Conrett.

"To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). Furthermore, where a reference is relied on to support a rejection, whether or not in a minor capacity, that reference should be positively included in the statement of the rejection. See *In re Hoch*, 428 F.2d 1341, 1342 n.3 166 USPQ 406, 407 n. 3 (CCPA 1970).

#### Obviousness Rejection Based on Montero

The Examiner has rejected Claims 12 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Montero. The applicant respectfully submits that the Examiner has failed to provide any reference that teaches or suggests the elements of claim 12. Be that as it may, the applicant submits that since claims 12 and 14 depend from an allowable base claim, the dependent claims should also be in condition for allowance.

Obviousness Rejection Based on Montero in view of U.S. Patent application  
US002998695 to Cornett

Claims 3-11 and 15-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Montero in view of Cornett. As noted above, the applicant respectfully submits that since claims 3-11 and 15-17 depend from an allowable base claim, these claims should also be in condition for allowance.

**New Independent Claims 18 and 19**

The applicant has also submitted herewith new claims 18 and 19 which further set forth the invention in view of the rejections set forth above. The applicant respectfully submits that new claims 18 and 19 are patentable over the prior art of record. Specifically, claim 18 recites in part "a band forming a generally triangular shape in a closed position" which includes "a second limb having a first limb portion and a second limb portion, the second limb portion defining a second terminal end and having a curved portion forming a support hook, a transition arch connecting the first limb portion to the second limb portion and having a radius that is less than a radius of the first limb portion." Claim 18 further recites "a connection arch having a radius that is less than a radius of the first limb portion connecting the first limb to the second limb, so that the first and second limbs press against and overlap each other in the closed position and are substantially planar and substantially in parallel to each other over an entire

region of overlap.” The applicant submits that Montero fails to teach such a structure and respectfully requests allowance of claim 18.

The applicant has also added new independent claim 19 which recites in part “a second limb having a generally C shape depending from said first limb and defining a second free end, the first and second limbs pressing against and overlapping each other in the closed position and being planar and in parallel to each other over an entire region of overlap.” Again, the applicant submits that claim 19 is neither taught nor suggested by Montero or the other prior art of record and should be in conditions for allowance.

### CONCLUSION

The Applicant respectfully submits that all issues set forth in the Office Action have been addressed and resolved. Allowance of the present application is respectfully requested. Any additional fees required by this amendment may be charged to deposit account no. 50-0881.

Respectfully submitted,



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Date: January 26, 2009